

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL L LUCKERT,  
Plaintiff,  
  
v.  
  
O. SMITH, et al.,  
Defendants.

Case No. [19-cv-08204-PJH](#)

**ORDER GRANTING MOTION TO FILE  
UNDER SEAL**

Re: Dkt. No. 49

Plaintiff, a detainee, proceeds with a pro se civil rights complaint under 42 U.S.C. § 1983. Defendants have filed a motion to dismiss for failure to prosecute or in the alternative for summary judgment. As part of the motion defendants have included plaintiff's medical records from the Jail Health Services and the San Francisco Department of Public Health. These records contain plaintiff's sensitive and private health information that is protected by the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d, et seq., and the California Confidentiality of Medical Information Act, Cal. Civ. Code § 56, et seq. Defendant's request that these records be filed under seal.

"The proponent of sealing bears the burden with respect to sealing. A failure to meet that burden means that the default posture of public access prevails." *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1182 (9th Cir. 2006). In this district, requests to file documents under seal in civil cases are governed by Civil Local Rule 79-5, which provides that "[n]o document may be filed under seal . . . except pursuant to a Court order that authorizes the sealing of the particular document, or portions thereof[;]" and further, that a sealing order may issue only based upon a request showing that the

document, or portions thereof, is privileged, or protectable as a trade secret, or otherwise entitled to protection under the law. Civ. L.R. 79-5(a). In particular, “[t]he request must be narrowly tailored to seek sealing only of sealable material. . . .” *Id.*

Defendants have met their burden in order to safeguard plaintiff’s private health information and to comply with federal and state law. Defendants’ motion to file under seal (Docket No. 49) is **GRANTED** and the clerk is requested to file the records under **SEAL**.

**IT IS SO ORDERED.**

Dated: August 17, 2021

/s/ Phyllis J. Hamilton

PHYLLIS J. HAMILTON  
United States District Judge

United States District Court  
Northern District of California